

House
REPUBLICAN
Conference

FloorPrep

Legislative Digest

Wednesday, May 13, 1998

John Boehner
Chairman
8th District, Ohio

*House Meets at 9:00 a.m. to Receive Former Members of Congress and Will
Reconvene for Legislative Business Following Meeting*

Anticipated Floor Action:

H.R. 3534—Mandates Information Act

H.R. 10—Financial Services Competition Act

H.R. 512—New Wildlife Refuge Authorization Act

Privileged Resolution Regarding Chairman Burton



H.R. 3534—Mandates Information Act

Floor Situation: The House will consider H.R. 3534 as its first order of business today. Yesterday, the Rules Committee granted an open rule that provides one hour of general debate, equally divided between the chairman and ranking minority member of the Rules Committee. The rule accords priority in recognition to members who have their amendments pre-printed in the *Congressional Record*. The chairman of the Committee of the Whole may postpone may postpone votes and reduce the voting time on a postponed vote to five minutes, so long as it follows a regular 15-minute vote. Finally, the rule provides one motion to commit, with or without instructions.

Summary: H.R. 3534 amends the 1974 Congressional Budget Act (*P.L. 93-344*) to require congressional committees to report on any bill or joint resolution that imposes a federal mandate on the private sector. The report must include information from the Congressional Budget Office (CBO) pertaining to the economic impact that the mandate may have on consumers, workers, and small businesses, including any disproportionate impact on particular regions or industries. Currently, CBO only must estimate the direct costs of all federal private sector mandates that exceed \$100 million, as well as the amount of federal financial assistance to private sector entities provided by the legislation. The bill also allows members to raise a point of order against any legislation that imposes a private sector mandate if it is not feasible for CBO to submit an estimate. The bill was introduced by Mr. Condit and was reported by the Rules Committee by voice vote.

Views: The Republican leadership supports passage of the bill. The Clinton Administration has expressed no official position on H.R. 3534.

Amendments: At the close of business, the *Legislative Digest* was aware of the following amendments to H.R. 3534:

Mr. Davis (VA) may offer an amendment (#1) to clarify that the definition of “federal intergovernmental mandates,” as drafted under the Unfunded Mandates Reform Act, was specifically intended to include Medicaid and other large entitlement programs, as well as efforts to impose new Medicaid mandates without new flexibility. Recently, when asked to review the president’s proposal for a cap on the federal share of Medicaid spending per beneficiary, CBO determined that the proposal did not contain a mandate as defined by UMRA. According to CBO, this was because states currently have the flexibility to amend their own financial and programmatic responsibilities by reducing some optional services or by choosing not to serve some optional beneficiaries. The amendment effectively overrules CBO’s decision. *Staff Contact: Peter Sirh, x5-1492*

Mr. Moakley may offer an amendment to strike from the bill language adopted by the Rules Committee during the mark-up. Currently, the bill contains language to forbid points of order if a bill provides an overall tax reduction but contains some tax increases within the measure. Supporters of this amendment argue that by eliminating the point of order options, Congress will be unable to fully debate all provisions affected by this measure. *Staff Contact: Leanita Shelby, x5-9486*

Mr. Traficant may offer an amendment (#2) to require the director of CBO to report to Congress each year on the economic impact of H.R. 3534 on employment and businesses in the United States. The intent of this amendment is to assure that there are no adverse effects upon U.S. businesses as a result of enactment of the measure and any of its amendments. *Staff Contact: Kim Briton, x5-5261*

Mr. Waxman may offer an amendment to permit points of order against provisions within any legislation that remove or weaken federal private sector mandates that protect the environment or public health. Supporters of the amendment seek to protect against possible legislation that promotes private sector interests but does not address environmental and public health concerns. *Staff Contact: Greg Dotson, x5-3976*

Additional Information: See *Legislative Digest*, Vol. XXVII, #12, May 11, 1998.



H.R. 10—Financial Services Competition Act

Floor Situation: The House will consider H.R. 10 after it completes consideration of H.R. 3534. Yesterday, the Rules Committee granted a structured rule providing one hour of general debate, equally divided between the chairmen and ranking minority members of the Banking & Financial Services and Commerce committees. The rule makes a committee amendment in the nature of a substitute in order as base text and waives all points of order against the substitute. It also makes in order 11 amendments, debatable in the order listed and for the amount of time specified below. The

chairman of the Committee of the Whole may postpone votes and reduce the voting time on a postponed vote to five minutes, so long as it follows a regular 15-minute vote. Finally, the rule provides one motion to recommit, with or without instructions.

Summary: H.R. 10 removes barriers to the affiliation between banking and other forms of financial services and, to a limited extent, commercial enterprises. Specifically, the bill:

- * repeals the anti-affiliation provisions of the 1933 Glass-Steagall Act and the 1956 Bank Holding Company Act, and makes other changes in law to allow mergers of banking, insurance, and securities organizations under a holding company structure;
- * authorizes securities and insurance firms to own Wholesale Financial Institutions (WFI), a new type of institution which provides securities and insurance firms with access to the federal payments system and the discount window with less regulatory oversight;
- * amends the 1934 Securities Exchange Act to establish functional regulation of bank securities activities;
- * establishes specific guidelines for insurance products that banks and other financial institutions may offer; and
- * prohibits the establishment of any new unitary thrift holding companies (UTHCs) after March 31, 1998, but grandfathers existing UTHCs.

H.R. 10 was introduced by Mr. Leach, and was initially reported by the Banking & Financial Services Committee by a vote of 28-26; the Commerce Committee ordered its version reported by a vote of 33-11. On April 30, 1998, House Republicans announced the “Financial Services Competition Act,” a substitute for H.R. 10 which was printed in the *Congressional Record*.

Views: The Republican leadership supports passage of the bill. An official Clinton Administration viewpoint was unavailable at press time. Unofficially, administration officials are divided over the measure. Treasury Secretary Rubin has vowed to recommend that the president veto the bill, but the measure is strongly supported by Federal Reserve Chairman Greenspan and Securities and Exchange Commission Chairman Levitt.

Amendments: As stated above, the rule makes in order the following amendments, debatable in the order listed and for the amount of time specified below:

— *Manager’s Amendment* —

Messrs. Bliley, Dingell, and Leach will offer a manager’s amendment, debatable for 30 minutes, to direct federal regulators to review the adequacy of consumer fee disclosures and consider improving their accuracy, simplicity, completeness, and consistency for any financial product (e.g. securities, loans, etc.). The amendment also grants the Securities and Exchange Commission explicit securities regulatory backup authority over wholesale financial holding companies to ensure that they comply with securities laws. Furthermore, the amendment:

- * includes a savings clause to clarify that nothing in H.R. 10 is intended to effect the authority of the Commodity Futures Trading Commission under the Commodity Exchange Act;
- * modifies the bill's consumer protection language which coordinates federal and state laws governing bank insurance sales. Whereas the bill currently allows state law to preempt inconsistent federal regulations, the amendment allows federal regulators to jointly preempt state law if they determine that federal regulations better protect consumers;
- * clarifies that the bill preempts state laws which "prevent or significantly interfere with" national bank activities or affiliations in order to make the bill more consistent with current law and the Supreme Court's 1996 *Barnett Bank of Marion County v. Nelson* decision;
- * modifies bill language regarding allowable state regulation of bank insurance sales to preserve current legal standards established by the Supreme Court;
- * clarifies the authority of state insurance regulators over insurance underwriters;
- * requires that Financial Holding Companies always comply with low cost banking provisions;
- * adds language to protect state regulation of securities fraud or deceit or unlawful transactions in connection with the Securities Act;
- * allows federal banking and state insurance regulators to share information regarding financial holding companies that own insurance companies, although such information may be subject to confidentiality and other privileges, and requires banking regulators to consult with insurance regulators before making any determination regarding affiliations with an insurance company;
- * allows banks to charge unlimited fees for services provided in their trust department and in connection with stock purchase plans, such as 401(k) plans, as long as they do not otherwise charge brokerage commissions;
- * deletes substantially all provisions regarding streamlining antitrust authority, and replaces it with language preserving the authority of the appropriate antitrust regulators (the Federal Trade Commission and the Attorney General);
- * requires the GAO to study the concentration in the financial services industry and its impact on consumers;
- * clarifies the types of derivative instruments that banks may sell;
- * expands the definition of qualified investors to include sovereign governments;

- * directs the Treasury Secretary to study the extent to which adequate services are being provided as intended by the Community Reinvestment Act (CRA); including a report to Congress for appropriate action with respect to institutions covered by CRA; and
- * requires the Federal Trade Commission to submit to Congress an interim report on its existing study of the privacy of consumer financial information. *Staff Contact: Robert Gordon (Bliley), x6-2424; Reid Stunts (Dingell), x5-3641; and Laurie Schaffer (Leach), x5-2258.*

— *Other Amendments* —

Messrs. LaFalce and Vento will offer amendment, debatable for 40 minutes, to permit all financial activities, except for insurance underwriting and real estate development, to be performed through an operating subsidiary structure. The amendment revises the consumer protection language under the bill to ensure that the stronger of state or federal consumer protection law prevails. The amendment also mandates that the Government Accounting Office conduct an annual antitrust study. *Staff Contact: Jeanne Roslanowick (LaFalce), x5-4038; Kirsten Obey (Vento), x5-6631*

Mr. Baker will offer an amendment, debatable for 40 minutes, to adjust the insurance title under the bill by placing a three year sunset on the requirement that a bank must buy an existing insurance agency that is at least two years old. The amendment adds a provision which allows a state insurance commissioner to exempt a bank from the requirement to acquire an existing insurance agency. The amendment also requires a study three years after enactment of the bill by the National Association of Insurance Commissioners and the Office of the Comptroller of the Currency on the effectiveness of the Illinois law as a safe harbor. The amendment also prohibits the sale of a unitary thrift to an unregulated nonfinancial company. Finally, the bill eliminates Community Reinvestment Act requirements for FDIC-insured depository institutions with assets of less than \$100 million. *Staff Contact: Paul Sawyer, x5-3901*

Mr. Baker will offer an amendment, debatable for 10 minutes, to require the FDIC to rebate reserves in excess of 1.50 percent of insured deposits to member banks after the Bank Insurance Fund and the Savings Association Insurance Fund are merged. *Staff Contact: Paul Sawyer, x5-3901*

Ms. Roukema and Messrs. Vento, Baker, McCollum, and LaFalce will offer an amendment, debatable for 30 minutes, to increase from five percent to 10 percent the amount of annual gross revenue which a financial holding company may derive from commercial activities. Growth above the 10 percent commercial revenue cap may be allowed at the discretion of the Federal Reserve Board on a case by case basis for up to an additional five percent. No *new* commercial investments or activities are permitted above the 10 percent cap. *Staff Contact: Patrick McCarty, x5-2258; Kirsten Obey (Vento), x5-6631; Paul Sawyer (Baker), x5-3901; and Jeanne Roslanowick (LaFalce), x5-4038*

- * **Messrs. Leach, Bereuter, and Campbell** will offer a substitute amendment to the Roukema amendment, debatable for 30 minutes, to eliminate the five percent commercial basket for financial holding companies. It sunsets after 10 years the

grandfathered 15 percent commercial basket (under the bill, securities firms and insurance companies that become financial holding companies by affiliating with a bank will have their nonfinancial activities “grandfathered” so long as the revenue from the grandfathered activities does not exceed 15 percent). The Federal Reserve Board may extend the 10-year period for one additional five-year period. It eliminates the five percent basket for wholesale financial services holding companies but retains the grandfather and commodities baskets. It states that revenues derived from subsidiary depository institutions of a holding company must be excluded from the annual gross revenues of the holding company when that figure is used to calculate the size of the grandfathered and commodities basket. *Staff Contact: Laurie Schaffer (Leach), x5-2258; Susan Olson (Bereuter), x5-4806; Charlie DeWitt (Campbell), x5-2631*

Mr. Kingston will offer an amendment, debatable for 10 minutes, to require the Comptroller General of the United States to study the projected economic impact that the enactment of H.R. 10 will have on banks and other financial institutions which have total assets of \$100 million or less. The Comptroller General must report to Congress within six months of enactment. *Staff Contact: Trip Tollison, x5-5831*

Ms. Roukema will offer an amendment, debatable for 10 minutes, to require the FDIC to conduct a study regarding the two deposit insurance funds: the Bank Insurance Fund and the Savings Association Insurance Fund. The FDIC must examine the number of institutions in each fund and the risk posed by the concentration of deposits in individual institutions or in certain regions. The FDIC must address how the funds might be merged, estimate how long it would take to merge, and determine how the merger would be financed. Finally, the FDIC must report to Congress within nine months of enactment. *Staff Contact: Patrick McCarty, x5-2258*

Mr. Sanders will offer an amendment, debatable for 10 minutes, to commission a study by the Comptroller General of the United States regarding the effect and possible benefits of uniformly limiting the commissions, fees, markups or other costs incurred by consumers on the acquisition of financial products. The Comptroller must issue a report to Congress within one year of enactment on the effect passage of H.R. 10 will have on these fees and the possibility of limiting them. *Staff Contact: Eric Edwards, x5-4115*

Mr. Metcalf will offer an amendment, debatable for 10 minutes, to allow a financial institution to retain its name if the word “federal” is issued when its charter is converted from a federal savings association to a national or state bank. *Staff Contact: Eric Strom, x5-2605*

Mr. Moran (VA) will offer an amendment, debatable for 10 minutes, to eliminate (or sunset) the requirement in the bill, five years after enactment, that a bank purchase an existing state-licensed insurance agency in order to engage in new insurance activities in a new state. *Staff Contact: Tim Aiken, x5-4376*

Additional Information: See *Legislative Digest*, Vol. XXVII, #11, Pt. II, May 4, 1998.



H.R. 512—New Wildlife Refuge Authorization Act

Floor Situation: The House may consider H.R. 512 after it completes consideration of H.R. 10. Yesterday, the Rules Committee granted an open rule that provides one hour of general debate, equally divided between the chairman and ranking minority member of the Resources Committee. The rule makes in order a committee amendment in the nature of a substitute as base text and accords priority in recognition to members who have their amendments pre-printed in the *Congressional Record*. The chairman of the Committee of the Whole may postpone votes and reduce the voting time on a postponed vote to five minutes, so long as it follows a regular 15-minute vote. Finally, the rule provides one motion to recommit, with or without instructions.

Summary: H.R. 512, as amended by the substitute, prohibits the expenditure of funds from the Land and Water Conservation Fund to create new national wildlife refuges until the Interior Secretary (1) notifies members of Congress representing the local area that the planning process has been initiated; (2) sends a copy of the environmental assessment or environmental impact statement, as well as a summary of the public comments relating to the proposed refuge, to the local congressional delegation and the authorizing and appropriating committees; and (3) ensures that notices of public meetings required by the National Environmental Policy Act (NEPA; *P.L. 91-190*) are published in local newspapers and clearly indicate that the purpose of the meeting is a proposal to create a new wildlife refuge. In addition, the bill clarifies that the determination of a boundary for a new refuge does not impose any additional federal land use restrictions until the land is acquired by the federal government. CBO estimates that enactment of H.R. 512 will have no significant impact on the federal budget. The bill was introduced by Mr. Young (AK); the Resources Committee passed the bill by a vote of 25-9 on September 25, 1997.

Views: The Republican leadership supports passage of the bill. An official Clinton Administration viewpoint was unavailable at press time. However, the substitute made in order by the rule is the result of an agreement reached with both the administration and the Democrats on the committee, and thus enjoys broad bipartisan support.

Amendments: At press time, the *Legislative Digest* was unaware of any amendments to H.R. 512.

Additional Information: See *Legislative Digest*, Vol. XXVII, #12, May 11, 1998.



Privileged Resolution Regarding Chairman Burton

Floor Situation: Minority Leader Gephardt may offer a privileged resolution sometime today to mandate that Mr. Burton be removed as head of the Committee on Government Reform & Oversight's investigation into alleged illegal campaign fundraising activities involving the president. The resolution is debatable for one hour unless a member successfully moves to table the motion. At press time, it was uncertain whether Mr. Gephardt intends to offer the resolution and further details were unavailable.

